



MINUTES

Executive Board

**Sixth Meeting
2012 Interim
August 20, 2012**

**Room 413
State Capitol
Pierre, South Dakota**

The sixth 2012 interim meeting of the Legislative Research Council Executive Board was called to order by Chair Charles M. Turbiville at 9:10 a.m. (CT), August 20, 2012, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Joni Cutler (Vice Chair) Bob Gray, Jim Hundstad, Ryan Maher, Tom R. Nelson, Craig Tieszen, and Larry Tidemann; and Representatives Gene Abdallah, Lance Carson, Kristin A. Conzet, Marc Feinstein, Larry Lucas (Ranking Minority Member), and Charles M. Turbiville (Chair). Representatives Val Rausch and Mark E. Venner were excused.

Staff members present included Jim Fry, LRC Director, and Teri Retrum, Administrative Assistant.

(Note): For the purpose of continuity, these minutes are not necessarily in chronological order. Also, all material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas."

(Note): The Budget Subcommittee met at 7:45 a.m. in the LRC Conference Room; the Investment Council Subcommittee met at 8:30 a.m. in Room 412, and the Legislative Interns Subcommittee met at 8:30 a.m. in the LRC Library.

Approval of Minutes

REPRESENTATIVE CARSON MOVED, SECONDED BY REPRESENTATIVE CONZET, THAT THE MINUTES OF THE JUNE 11, 2012, MEETING BE APPROVED. The motion prevailed on a voice vote.

Approval of Agenda

SENATOR TIESZEN MOVED, SECONDED BY REPRESENTATIVE CONZET, THAT THE AGENDA BE APPROVED. The motion prevailed on a voice vote.

South Dakota Investment Council Subcommittee Report

As Chair of the subcommittee, **Senator Larry Tidemann** introduced **Mr. Wesley G. Tschetter**, Investment Council Chair, and **Mr. Matt Clark**, State Investment Officer.

Senator Tidemann said that the subcommittee was advised of the Council's FY 2014 budget request to increase its staff by two, increase travel, increase office space, and increase the number of audits from yearly to quarterly audits.

Report of the South Dakota Investment Council

Mr. Tschetter introduced the following Council members present at this meeting: Hugh Bartels, Council Vice Chair; Jon Hunter; Jim Means; David Hillard; Jarrod Johnson, School and Public Lands Commissioner; Richard Sattgast, State Treasurer; and Rob Wylie, SDRS Administrator. Also introduced were Investment Council Staff: Brett Fligge, Assistant Investment Officer; Chris Nelson, Assistant Investment Officer; and Laurie Riss, Business Manager.

Addressing the report (**Document #1**), Mr. Tschetter said that the Investment Council well exceeded its benchmark. He noted that the 1.9% investment gain was better than similar plans in other states. Potential excess earnings with an outperformance of even half the outperformance for the last 39 years would make a large difference by additional earnings of \$2.5 billion. An underperformance would cost the retirement system relative to average returns. Mr. Tschetter commented that the SDIC continues to save money as it continues to manage funds at low management fees, a feat remarkable in the investment world.

Mr. Clark informed the Board that the SDRS earned \$142.6 million on a return of 1.9 percent at the end of June 30, 2012; however, the retirement system's assets dropped to about \$7.84 billion, down from the prior year, due to benefits paid to retirees. Mr. Clark and Mr. Tschetter said that it is important that the Council continues to assess its investment strategy for the long-term.

At present, the Council has 28 FTEs—22 investment professionals, including Mr. Clark; 4 accountants; and 2 office staff. Regarding the Council's FY 2014 budget request, Mr. Clark said that the Council is requesting an increase in staff by two, an increase in travel, an increase in office space, and an increase in the number of audits from yearly to quarterly audits.

SENATOR TIDEMANN MOVED, SECONDED BY REPRESENTATIVE VENNER, THAT THE EXECUTIVE BOARD ADOPT THE FY 2014 BUDGET REQUEST PRESENTED BY THE SOUTH DAKOTA INVESTMENT COUNCIL TO GO FORTH TO THE APPROPRIATIONS COMMITTEE DURING THE 2013 LEGISLATIVE SESSION. The motion prevailed on a roll call vote with 13 voting AYE, 2 EXCUSED. Those voting AYE: Gray, Hundstad, Maher, Nelson, Tidemann, Tieszen, Abdallah, Carson, Conzet, Feinstein, Lucas, Cutler, Turbiville. Those EXCUSED: Rausch, Venner.

Incentive Payment for the State Investment Officer

SENATOR TIESZEN MOVED, SECONDED BY REPRESENTATIVE FEINSTEIN, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION FOR THE PURPOSE OF SETTING THE INCENTIVE PAYMENT FOR THE STATE INVESTMENT OFFICER. The motion prevailed on a voice vote.

The Executive Board went into executive session at 9:45 a.m.

SENATOR TIDEMANN MOVED, SECONDED BY SENATOR TIESZEN, THAT THE EXECUTIVE BOARD COME OUT OF EXECUTIVE SESSION. The motion prevailed on a voice vote.

The Executive Board came out of executive session at 9:55 a.m.

SENATOR TIDEMANN MOVED, SECONDED BY REPRESENTATIVE CONZET, THAT THE EXECUTIVE BOARD CONCUR WITH THE RECOMMENDATION OF THE INVESTMENT COUNCIL TO A RETURN-LINKED COMPENSATION OF \$220,979.97 TO THE STATE INVESTMENT OFFICER. The motion prevailed on a roll call vote with 13 voting AYE, 2 EXCUSED. Those voting AYE: Gray, Hundstad, Maher, Nelson, Tidemann, Tieszen, Abdallah, Carson, Conzet, Feinstein, Lucas, Cutler, Turbiville. Those EXCUSED: Rausch, Venner.

The Executive Board recessed at 9:55 a.m. and reconvened at 10:05 a.m.

Report on Proceedings of the Legislative Planning Committee

As Acting Chair of the Legislative Planning Committee, Executive Board Chair Turbiville reported that the Committee elected Representative Scott Munsterman as its Chair and Representative Steve Street as its Vice Chair at the Committee's July 23, 2012, meeting.

Chair Turbiville said that the Legislative Planning Committee was established in HB 1133, which passed during the 2012 Legislative Session, to make a continuing study of emerging trends, assets, and challenges in South Dakota and to address the long-term implications of the decisions made by the Legislature.

Mr. Fry informed the Board that the Legislative Planning Committee outlined its initial choices for study as follows:

1. Day-to-day operations of the Legislative Research Council/Legislature;
2. Economic development;
3. Education;
4. Health care;
5. Corrections; and
6. Transportation (driver licensing).

According to Mr. Fry, the Committee will have several meetings. At the upcoming meeting, Dr. Sidney Goss from the South Dakota School of Mines and Technology will discuss demographic trends and analysis of South Dakota in 2012—trends in work force development and economic development.

Chair Turbiville said that Section 3 of HB 1133 states:

Section 3. Each year, the Executive Board shall identify up to six categories for the Legislature's Planning Committee to study.

The Chair commented that he questions whether the planning committee should be spending its time on Choice 1—the day-to-day operations of the Legislative Research Council/Legislature.

In light of the Governor's Task Force on Corrections, Chair Turbiville said that perhaps the planning committee would want to delay its consideration and action regarding its intention to

study corrections issues in South Dakota until the Task Force on the same subject has been completed and a report submitted.

Senator Joni Cutler reminded the Board that the Legislature repealed legislative oversight of state agencies; however, Senator Cutler said that legislative oversight of state agencies would empower the Legislature and urged that the Body not forget that the Legislature should be playing a role in legislative oversight and review of agencies.

Senator Bob Gray said that the planning committee will struggle to come up with a grand plan due to many philosophical differences among the committee members and the Legislature. Also, Senator Gray said that, currently, the Executive Board and Legislative Procedure Committee work on many of the issues regarding Choice #1.

Senator Gray stated that this Executive Board should have the conversation on the workings of this newly-formed planning committee.

Senator Jim Hundstad said that the Legislature passes laws all the time and gives the Executive Branch lots of power to promulgate rules in regard to those laws. Senator Hundstad stated that the Legislature needs to know if those rules meet the intent of the Legislature. Senator Hundstad suggested that the Rules Review Committee be asked to an Executive Board meeting to review the process concerning its purview of the promulgated rules. He said that oversight of agencies is a good idea and should not be left in the hands of only the Rules Review Committee.

Senator Larry Tidemann stated that the Legislature also has the Government Operations and Audit Committee and the Appropriations committee to monitor government agencies and assess accountability. Senator Tidemann said that there are three branches of government, and the Legislative Branch needs to assess its involvement.

Senator Craig Tieszen expressed support for long-term planning. Senator Tieszen said that the Legislature needs to be conscious of not promoting redundancy regarding committee studies. Senator Tieszen agreed with Chair Turbiville's comment that perhaps the planning committee would want to delay its consideration and action concerning its intention to study corrections issues in South Dakota until the Task Force on the same subject has been completed and a report submitted.

SENATOR GRAY MOVED, SECONDED BY SENATOR TIESZEN, THAT THE LEGISLATIVE PLANNING COMMITTEE SHOULD FOCUS ON A LONG-TERM APPROACH TO LEGISLATIVE PREPARATION AND ACTION AND STUDY THE DEMOGRAPHICS TRENDS EVIDENT IN SOUTH DAKOTA OVER THE NEXT TWENTY YEARS REGARDING GOVERNMENT SERVICES, WORKFORCE DEVELOPMENT, NEEDS AND FUTURE DIRECTION OF EDUCATION, AND GOVERNMENTAL ORGANIZATION AT BOTH THE STATE AND LOCAL LEVELS. The motion prevailed on a roll call vote with 12 voting AYE, 1 voting NAY, and 2 EXCUSED. Those voting AYE: Gray, Hundstad, Maher, Nelson, Tidemann, Tieszen, Carson, Conzet, Feinstein, Lucas, Cutler, Turbiville. Those voting NAY: Abdallah. Those EXCUSED: Rausch, Venner.

With the consensus of Board members, Chair Turbiville directed that performance indicators to evaluate government services be added to the focus of the Legislative Planning Committee.

Senator Gray requested that staff report on the legislative oversight responsibilities of the Rules Review, Government Operations and Audit, and Appropriations Committees at the Executive Board's next meeting.

Senator Cutler commented that the agreed upon choices for study by the Legislative Planning Committee and the Board's discussion are an excellent focus for the two committees. Senator Cutler also said that it is important for the Legislature to be proactive rather than reactive.

Senator Gray agreed that if there is going to be a planning committee, the concentration should be on looking forward.

Representative Gene Abdallah said that the Legislature should concentrate efforts on where there is a problem or a perceived problem.

Representative Marc Feinstein said that long-term trends need to be reviewed.

Senator Hundstad said that planning for the future is difficult because no one can foresee all that will happen. The Legislature cannot think of everything that might or will happen in the future.

Chair Turbiville said that he agrees with Senator Hundstad's statements.

Senator Tidemann said that he supports the direction the Board is going in regard to legislative planning.

Proposal for Executive Board Sponsored Legislation

To address a concern last session with the Special Appropriations Committee letters of intent, Chair Turbiville reviewed the draft proposal for Executive Board sponsored legislation **(Document #2)**.

- An Act to clarify the scope of authority of the special appropriations committee and the Executive Board of the Legislative Research Council with respect to expressions of legislative intent.

The Chair said that he wants to ensure that, if the Special Appropriations Committee continues its practice of sending letters of intent, those letters reflect the provisions of the General Appropriations Act.

Senator Tidemann asked who would be the determiner of whether the letters of intent meet the requirements and said that the draft legislation puts the cart before the horse.

Chair Turbiville said that the concern is whether a provision involves one-time money or on-going money.

Senator Cutler said that the underlined material on lines 11 to 14, inclusive, should be written in the positive rather than the negative.

Representative Larry Lucas said that the letters of intent should be written before sine die. He suggested that an addendum be attached to the general bill concerning the letters of intent.

Senator Hundstad said that the money appropriated in the general bill is only one-time money every year.

Senator Cutler questioned whether the Special Appropriations Committee should make decisions outside of sine die.

Senator Gray asked whether the Executive Board should address a policy regarding letters of intent or to direct that all letters of intent be reviewed by the Executive Board.

Senator Tidemann said that there is not a law that requires letters of intent and that he does not foresee a problem with a review by the Executive Board.

Representative Kristin Konzet said that the Board was told that the letters of intent were an area of concern.

Representative Feinstein expressed his opinion that a court would not rule a letter of intent to carry any action, if it were formulated outside of session.

Senator Cutler proposed that an Executive Board subcommittee be appointed to work on the draft legislation to clarify the Executive Board's part in the letter of intent process.

Representative Lucas suggested that this issue be addressed in the Legislative Rules in the Red Book rather than by legislation.

Chair Turbiville appointed Senators Cutler, Gray, and Tidemann; and Representatives Konzet, Feinstein, and Lucas to a subcommittee to review the letter of intent process and a possible change to legislative rules regarding the process.

Subcommittee Reports (Continued)

Budget Subcommittee Report

LRC Budget Request

On behalf of **Representative Lance Carson**, Chair of the Budget Subcommittee, Mr. Fry addressed the proposal for the FY 2014 LRC budget (**Document #3**).

Mr. Fry reported that the number of LRC staff remains unchanged and that funding for 22 legislative interns is part of the budget. Mr. Fry said that the travel budget is sufficient to allow legislators and staff to resume travel to meetings that promote legislative and staff development. The cost of the computer lease will be determined before the November meeting.

Mr. Fry stated that \$430 was reverted to the General Fund from the FY 2012 budget. According to Mr. Fry, the LRC is well positioned to run the Council and provide the necessary services.

Representative Lucas said that travel still should be monitored and that reports should continue to be given regarding travel to meetings and proceedings of the meetings.

Responding to Senator Hundstad, Mr. Fry said that the work in LCR 1 and 2 has begun and that some of the funds were able to be encumbered, particularly for carpet.

Senator Ryan Maher noted that the accidental death benefit needs to be added back into the FY 2014 budget.

Mr. Fry replied that that will be added.

REPRESENTATIVE CARSON MOVED, SECONDED BY SENATOR CUTLER, THAT THE EXECUTIVE BOARD ADOPT THE LEGISLATIVE RESEARCH COUNCIL'S FY 2014 BUDGET REQUEST TO GO FORTH TO THE APPROPRIATIONS COMMITTEE DURING THE 2013 LEGISLATIVE SESSION. The motion prevailed on a voice vote.

Department of Legislative Audit Budget Request

Mr. Martin Guindon, Auditor General, Department of Legislative Audit, discussed the department's budget for FY 2014 (**Document #4**). Mr. Guindon said that two options are in the budget request:

1. Option A funds costs associated with two additional FTE;
2. Option B leaves FTE for the department at 34.

Increases requested in both Options A and B are employee compensation and contractual services.

REPRESENTATIVE ABDALLAH MOVED, SECONDED BY REPRESENTATIVE CONZET, THAT THE EXECUTIVE BOARD ADOPT OPTION A OF THE DEPARTMENT OF LEGISLATIVE AUDIT'S FY 2014 BUDGET REQUEST TO GO FORTH TO THE APPROPRIATIONS COMMITTEE DURING THE 2013 LEGISLATIVE SESSION. The motion prevailed on a voice vote.

Legislative Interns Subcommittee

Senator Tieszen, Chair of the Legislative Interns Subcommittee, reported that up to 22 legislative interns could be hired for the upcoming session. Applications are due in mid-October. Senator Tieszen requested that current legislators help the Legislature to recruit interns. He said that internships will be offered after the election so the students should be notified by Thanksgiving.

Senator Tieszen noted that the 2012 intern surveys came back with very favorable comments both from the viewpoint of the legislators and the interns.

Senator Tidemann commented that area legislators will be at a table to discuss the internship program with students at South Dakota State University's Job Fair.

Representative Lucas said that, during new member orientation, legislators should be told about the services that interns can provide.

Senator Cutler agreed and said that guidance also should be provided to leadership to take back to caucus for ways to make good use of the capabilities of the interns.

At this time, Mr. Fry announced that Denice Houlette will begin work as a Senior Fiscal Analyst in the LRC on September 10, 2012. Ms. Houlette has been working in the Accounting Analysis and Financial Reporting section of the Bureau of Finance and Management.

Adjournment

REPRESENTATIVE ABDALLAH MOVED, SECONDED BY REPRESENTATIVE LUCAS, THAT THE EXECUTIVE BOARD BE ADJOURNED. The motion prevailed on a voice vote.

The Executive Board adjourned at 11:50 a.m.

